



Reprinted
February 3, 2004

HOUSE BILL No. 1245

DIGEST OF HB 1245 (Updated February 2, 2004 8:32 pm - DI 44)

Citations Affected: IC 35-40; IC 35-46; noncode.

Synopsis: Crime victims; neglect of dependent. Provides that unless ordered by the court, a prosecutor shall not disclose information identifying a crime victim during discovery and other proceedings. Provides that the court may impose reasonable restrictions on disclosures of crime victim identifying information. Makes neglect of a dependent a Class A felony instead of a Class D felony if the neglect results in the death of a dependent who is less than 14 years of age and is committed by a person at least 18 years of age. Makes contributing to delinquency a Class C felony instead of a Class A misdemeanor if the person furnishes alcohol or a controlled substance to a minor and consumption of the alcohol or drug is the proximate cause of the death of any person.

Effective: July 1, 2004.

Van Haaften, Austin

January 15, 2004, read first time and referred to Committee on Judiciary.
January 26, 2004, amended, reported — Do Pass; referred to Committee on Ways and Means pursuant to Rule 127.
January 29, 2004, referral to Committee on Ways and Means pursuant to Rule 127 withdrawn.
February 2, 2004, read second time, amended, ordered engrossed.

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HB 1245—LS 6810/DI 69+



Reprinted
February 3, 2004

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

HOUSE BILL No. 1245

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-40-6-4, AS ADDED BY P.L.139-1999,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2004]: Sec. 4. **(a) As used in this section, "identifying**
4 **information" has the meaning set forth in IC 35-43-5-1.**

5 **(b)** A prosecuting attorney or a victim assistance program shall do
6 the following:

7 (1) Inform a victim that the victim may be present at all public
8 stages of the criminal justice process to the extent that:

9 (A) the victim's presence and statements do not interfere with
10 a defendant's constitutional rights; and

11 (B) there has not been a court order restricting, limiting, or
12 prohibiting attendance at the criminal proceedings.

13 (2) Timely notify a victim of all criminal justice hearings and
14 proceedings that are scheduled for a criminal matter in which the
15 victim was involved.

16 (3) Promptly notify a victim when a criminal court proceeding has
17 been rescheduled or canceled.

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(4) Obtain an interpreter or translator, if necessary, to advise a victim of the rights granted to a victim under the law.

(5) Coordinate efforts of local law enforcement agencies that are designed to promptly inform a victim after an offense occurs of the availability of, and the application process for, community services for victims and the families of victims, including information concerning services such as the following:

(A) Victim compensation funds.

(B) Victim assistance resources.

(C) Legal resources.

(D) Mental health services.

(E) Social services.

(F) Health resources.

(G) Rehabilitative services.

(H) Financial assistance services.

(I) Crisis intervention services.

(J) Transportation and child care services to promote the participation of a victim or a member of the victim's immediate family in the criminal proceedings.

(6) Inform the victim that the court may order a defendant convicted of the offense involving the victim to pay restitution to the victim under IC 35-50-5-3.

(7) Upon request of the victim, inform the victim of the terms and conditions of release of the person accused of committing a crime against the victim.

(8) Upon request of the victim, give the victim notice of the criminal offense for which:

(A) the defendant accused of committing the offense against the victim was convicted or acquitted; or

(B) the charges were dismissed against the defendant accused of committing the offense against the victim.

(9) In a county having a victim-offender reconciliation program (VORP), provide an opportunity for a victim, if the accused person or the offender agrees, to:

(A) meet with the accused person or the offender in a safe, controlled environment;

(B) give to the accused person or the offender, either orally or in writing, a summary of the financial, emotional, and physical effects of the offense on the victim and the victim's family; and

(C) negotiate a restitution agreement to be submitted to the sentencing court for damages incurred by the victim as a result of the offense.

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(10) Assist a victim in preparing verified documentation necessary to obtain a restitution order under IC 35-50-5-3.

(11) Advise a victim of other rights granted to a victim under the law.

(c) Except as provided in subsection (d), a prosecuting attorney shall not disclose victim identifying information during discovery and other proceedings.

(d) For good cause shown, the court may order the disclosure of victim identifying information. The court may impose reasonable restrictions on the disclosure of victim identifying information, including a requirement that the identifying information not be disclosed to the defendant.

SECTION 2. IC 35-46-1-4, AS AMENDED BY P.L.133-2000, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. (a) A person having the care of a dependent, whether assumed voluntarily or because of a legal obligation, who knowingly or intentionally:

(1) places the dependent in a situation that endangers the dependent's life or health;

(2) abandons or cruelly confines the dependent;

(3) deprives the dependent of necessary support; or

(4) deprives the dependent of education as required by law;

commits neglect of a dependent, a Class D felony.

(b) However, the offense is:

(1) a Class C felony if it is committed under subsection (a)(1),

(a)(2), or (a)(3) and results in bodily injury;

(2) a Class B felony if it is committed under subsection (a)(1),

(a)(2), or (a)(3) and results in serious bodily injury; ~~and~~

(3) a Class A felony if it is committed under subsection (a)(1),

(a)(2), or (a)(3) by a person at least eighteen (18) years of age

and results in the death of a dependent who is less than

fourteen (14) years of age; and

(4) a Class C felony if it is committed under subsection (a)(2) and

consists of cruel or unusual confinement or abandonment.

(c) It is a defense to a prosecution based on an alleged act under this section that:

(1) the accused person left a dependent child who was, at the time the alleged act occurred, not more than thirty (30) days of age with an emergency medical provider who took custody of the child under IC 31-34-2.5 when:

(A) the prosecution is based solely on the alleged act of leaving the child with the emergency medical services

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1 provider; and
 2 (B) the alleged act did not result in bodily injury or serious
 3 bodily injury to the child; or
 4 (2) the accused person, in the legitimate practice of his religious
 5 belief, provided treatment by spiritual means through prayer, in
 6 lieu of medical care, to his dependent.
 7 (d) Except for property transferred or received:
 8 (1) under a court order made in connection with a proceeding
 9 under IC 31-15, IC 31-16, IC 31-17, or IC 31-35 (or IC 31-1-11.5
 10 or IC 31-6-5 before their repeal); or
 11 (2) under IC 35-46-1-9(b);
 12 a person who transfers or receives any property in consideration for the
 13 termination of the care, custody, or control of a person's dependent
 14 child commits child selling, a Class D felony.
 15 SECTION 3. IC 35-46-1-8 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. (a) A person **at least**
 17 eighteen (18) years of age ~~or older~~ who knowingly or intentionally
 18 encourages, aids, induces, or causes a person ~~under less than~~ eighteen
 19 (18) years of age to commit an act of delinquency (as defined by
 20 IC 31-37-1 or IC 31-37-2) commits contributing to delinquency, a
 21 Class A misdemeanor.
 22 (b) However, ~~the~~ **an offense described in subsection (a)** is a Class
 23 C felony if:
 24 (1) **the:**
 25 (A) **person knowingly or intentionally furnishes:**
 26 (i) **an alcoholic beverage to a person less than eighteen**
 27 **(18) years of age in violation of IC 7.1-5-7-8 when the**
 28 **person knew or reasonably should have known that the**
 29 **person was less than eighteen (18) years of age; or**
 30 (ii) **a controlled substance (as defined in IC 35-48-1-9) or**
 31 **a drug (as defined in IC 9-13-2-49.1) in violation of**
 32 **Indiana law; and**
 33 (B) **consumption, ingestion, or use of the alcoholic**
 34 **beverage, controlled substance, or drug is the proximate**
 35 **cause of the death of any person; or**
 36 (2) **the person is at least eighteen (18) years of age and**
 37 **knowingly or intentionally encourages, aids, induces, or causes a**
 38 **person less than eighteen (18) years of age to commit an act that**
 39 **would be a felony if committed by an adult under any of the**
 40 **following:**
 41 ~~(1)~~ (A) IC 35-48-4-1.
 42 ~~(2)~~ (B) IC 35-48-4-2.

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- 1 ~~(3)~~ (C) IC 35-48-4-3.
2 ~~(4)~~ (D) IC 35-48-4-4.
3 ~~(5)~~ (E) IC 35-48-4-4.5.
4 ~~(6)~~ (F) IC 35-48-4-4.6. or
5 ~~(7)~~ (G) IC 35-48-4-5.

6 SECTION 4. [EFFECTIVE JULY 1, 2004] IC 35-46-1-4 and
7 IC 35-46-1-8, both as amended by this act, apply only to offenses
8 committed after June 30, 2004.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1245, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17.

Delete pages 2 through 4.

Page 5, delete lines 1 through 9.

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1245 as introduced.)

LAWSON L, Chair

Committee Vote: yeas 9, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1245 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 35-40-6-4, AS ADDED BY P.L.139-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. (a) **As used in this section, "identifying information" has the meaning set forth in IC 35-43-5-1.**

(b) A prosecuting attorney or a victim assistance program shall do the following:

(1) Inform a victim that the victim may be present at all public stages of the criminal justice process to the extent that:

(A) the victim's presence and statements do not interfere with a defendant's constitutional rights; and

(B) there has not been a court order restricting, limiting, or prohibiting attendance at the criminal proceedings.

(2) Timely notify a victim of all criminal justice hearings and proceedings that are scheduled for a criminal matter in which the victim was involved.

(3) Promptly notify a victim when a criminal court proceeding has been rescheduled or canceled.

(4) Obtain an interpreter or translator, if necessary, to advise a victim of the rights granted to a victim under the law.

(5) Coordinate efforts of local law enforcement agencies that are designed to promptly inform a victim after an offense occurs of the availability of, and the application process for, community services for victims and the families of victims, including information concerning services such as the following:

(A) Victim compensation funds.

(B) Victim assistance resources.

(C) Legal resources.

(D) Mental health services.

(E) Social services.

(F) Health resources.

(G) Rehabilitative services.

(H) Financial assistance services.

(I) Crisis intervention services.

(J) Transportation and child care services to promote the participation of a victim or a member of the victim's immediate family in the criminal proceedings.

(6) Inform the victim that the court may order a defendant

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convicted of the offense involving the victim to pay restitution to the victim under IC 35-50-5-3.

(7) Upon request of the victim, inform the victim of the terms and conditions of release of the person accused of committing a crime against the victim.

(8) Upon request of the victim, give the victim notice of the criminal offense for which:

(A) the defendant accused of committing the offense against the victim was convicted or acquitted; or

(B) the charges were dismissed against the defendant accused of committing the offense against the victim.

(9) In a county having a victim-offender reconciliation program (VORP), provide an opportunity for a victim, if the accused person or the offender agrees, to:

(A) meet with the accused person or the offender in a safe, controlled environment;

(B) give to the accused person or the offender, either orally or in writing, a summary of the financial, emotional, and physical effects of the offense on the victim and the victim's family; and

(C) negotiate a restitution agreement to be submitted to the sentencing court for damages incurred by the victim as a result of the offense.

(10) Assist a victim in preparing verified documentation necessary to obtain a restitution order under IC 35-50-5-3.

(11) Advise a victim of other rights granted to a victim under the law.

(c) Except as provided in subsection (d), a prosecuting attorney shall not disclose victim identifying information during discovery and other proceedings.

(d) For good cause shown, the court may order the disclosure of victim identifying information. The court may impose reasonable restrictions on the disclosure of victim identifying information, including a requirement that the identifying information not be disclosed to the defendant."

Page 2, between lines 27 and 28, begin a new paragraph and insert:

"SECTION 3. IC 35-46-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. **(a)** A person **at least** eighteen (18) years of age ~~or older~~ who knowingly or intentionally encourages, aids, induces, or causes a person ~~under less than~~ eighteen (18) years of age to commit an act of delinquency (as defined by IC 31-37-1 or IC 31-37-2) commits contributing to delinquency, a Class A misdemeanor.

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(b) However, ~~the~~ an offense described in subsection (a) is a Class C felony if:

(1) the:

(A) person knowingly or intentionally furnishes:

(i) an alcoholic beverage to a person less than eighteen (18) years of age in violation of IC 7.1-5-7-8 when the person knew or reasonably should have known that the person was less than eighteen (18) years of age; or

(ii) a controlled substance (as defined in IC 35-48-1-9) or a drug (as defined in IC 9-13-2-49.1) in violation of Indiana law; and

(B) consumption, ingestion, or use of the alcoholic beverage, controlled substance, or drug is the proximate cause of the death of any person; or

(2) the person is at least eighteen (18) years of age and knowingly or intentionally encourages, aids, induces, or causes a person less than eighteen (18) years of age to commit an act that would be a felony if committed by an adult under **any of the following:**

(+) (A) IC 35-48-4-1.

(-) (B) IC 35-48-4-2.

(-) (C) IC 35-48-4-3.

(+) (D) IC 35-48-4-4.

(-) (E) IC 35-48-4-4.5.

(-) (F) IC 35-48-4-4.6. or

(-) (G) IC 35-48-4-5."

Page 2, line 28, delete "," and insert "**and IC 35-46-1-8, both**".

Page 2, line 29, delete "applies" and insert "**apply**".

Re-number all SECTIONS consecutively.

(Reference is to HB 1245 as printed January 30, 2004.)

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